

Remarks

Claim 10 was objected to and has now been corrected.

Claims 1, 3, 4, 10, 12, 13, 18, and 22 have rejected under 35 U.S.C. 103(a) as obvious over Bart in view of Wash and Durso.

Bart, the principal reference, discloses a “novelty toy” (col. 1, line 17, and col. 2, line 35) that produces an audio message when struck. The toy includes a band that snaps into either a coiled position or an elongated position. The Examiner views the housing by itself (without the band) as similar to Applicant’s device. The Examiner concedes, however, that Bart does not show an on-off switch or a base that is either a pin that can be pushed into the ground or material made of small hooks that can be releasably attached to a fabric.

Wash is cited to show an on-off switch on a golf putting training device. However, Wash’s device is large and can easily accommodate his on-off switch, which is large enough to be easily moved with a finger (#14 in Figure 3). But there is no room for Wash’s on-off switch on Bart’s device. The housing of Bart’s device must be small so that it can be attached to his band and worn on a child’s wrist. Note that the “speaker, the battery, and the read-only memory chip containing the pre-recorded message” in Bart’s device are “miniaturized” (col. 1, lines 59 to 60). The speaker, which is almost as large as the housing (Figure 7) is only 29 mm in diameter. (Col. 4, lines 55 to 56). Thus, Wash’s on-off switch cannot be simply added to Bart’s device, but would require extensive changes in Bart’s device, making the device significantly larger and less suitable for the purpose for which it is intended.

Also, there is no need for an on-off switch in Bart’s device as the device is always

off except when it is struck. If Applicant's device did not have an on-off switch, an accidental bump when the device is being carried would set it off, annoying other people and embarrassing the person carrying it. That is not a problem with Bart's device, however, as it is a child's novelty toy and, if it is accidentally activated, it would be humorous, not a social crisis. Thus, there is no need for an on-off switch on Bart's device and it would not be obvious to put Wash's on-off switch into Bart's device.

Durso is cited to show a golf swing touch trainer "wherein the base can include spiking into the ground" (Office Action, page 6 - no spike is disclosed) or a material made of small hooks that can be releasably attached to a fabric. The Examiner argues that it would be obvious to use Duso's spike or "Velcro" on Bart's device. Applicant does not agree. Bart's device is specifically made to attach to a special band that can be snapped into one of two different positions. Bart provides a slot (#16A in Figure 4) that is specially designed to accommodate the shape of that band so that the band stays in the slot without any need to attach it. ("The arcuate shape of the spring band 12 provides a natural securing feature which secures spring band 12 to the housing 16 without the need for any additional securing devices." Col. 3, lines 54 to 56.)

If a spike or hooked material is attached to the bottom of Bart's device it will not be able to function the way it is designed, that is, by slapping the band in its linear shape against the wrist, causing it to change into its circular shape. The spike or hooked material will hit the wrist and will make wearing the device very uncomfortable, if not dangerous.

In addition, Bart says (column 3, lines 41 to 44), "Once the band is dynamically deployed by striking the middle of it against an object such as your wrist or forearm, the

entire metal band 12 will coil (as shown in FIG. 5) around the wrist, forearm or other body part of the user." Thus, the middle of the band must be exposed and cannot be covered by a spike, pin, or hooked material. Bart's device is called "SLAP WRAP" (col. 1, lines 29-31) because, when the band is in its linear shape, one end of the band is grasped and the band and housing unit are slapped against the wrist or other object, causing the band to wrap around the wrist (or other object). (See col. 5, lines 33-39.) That cannot be done if there is a spike or hooked material at the point of impact. Thus, it is not obvious to attach a spike, pin, or hooked material to the bottom of Bart's housing.

Claims 2, 11, and 17 were rejected under 35 U.S.C. 103(a) as obvious over Bart in view of Wash and Durso, further in view of Lee. Bart, Wash, and Durso have been discussed. Lee is cited to show a pin, but is not otherwise relevant, and the issue of attaching a spike to Bart's device, which is similar to a pin, was discussed hereinabove.

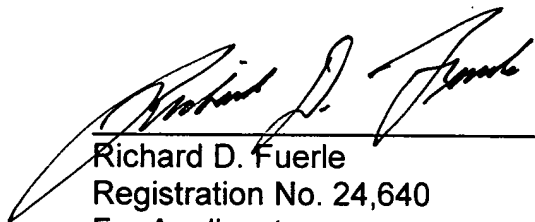
Claims 5-6, 15-16, and 20 to 21 were rejected under 35 U.S.C. 103(a) as obvious over Bart in view of Wash and Durso, further in view of Knox. Bart, Wash, and Durso have been discussed. Knox was cited as teaching the sound of a human voice in response to a putt ball, but is not otherwise relevant.

Claims 9, 14, and 19 were rejected under 35 U.S.C. 103(a) as obvious over Bart in view of Wash and Durso, further in view of Williams. Bart, Wash, and Durso have been discussed. Williams was cited to show a spring and ferrule sensor switch. The Examiner notes that in Williams the spring is outside the ferrule, but in Applicant's claims the spring is inside the ferrule. The Examiner states, "It would have been obvious ... to reverse the parts ..." Applicant does not agree. With the spring on the

outside, as in Williams, the electrically conductive spring can come into contact with other metal parts, perhaps setting off a false "hit." That could be prevented by insulating the outside of the spring while leaving the inside of the spring un-insulated, but it is difficult to insulate only the outside of a spring. Applicant's design avoids that problem as the spring can be left un-insulated and it is easy to insulate only the outside of the cylindrical ferrule. Thus, it is not obvious to put the spring inside the ferrule, as required by Applicant's Claims 9, 14, and 19.

Applicant respectfully urges the Examiner to reconsider his position. All of the claims are believed to be allowable over the references cited and allowance of all of the claims is therefore requested. Should the Examiner wish to discuss the application, he is invited to call Applicant's attorney at (716) 774-0091.

Respectfully,



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